

Eötvös Loránd University
Faculty of Humanities

SUMMARY OF DOCTORAL THESIS

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**GENRE AWARENESS IN LEGAL TRANSLATION AND LEGAL
TRANSLATION TRAINING**

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1. Introduction

The past decade has seen a spectacular upsurge of research related to legal translation and legal translation training and parallelly, a multiplication of research articles that approach the subject from different perspectives in the disciplinary areas of linguistics, law, translation studies and translation pedagogy. By reviewing these articles, we can witness that a significant proportion of them focus on the subject of legal terminology, while the generic approach to legal texts remains mostly in the background. The idea of my research came with the realization that the mastery of the register and phraseology of specific legal genres is just as – if not more – relevant for legal translation students as terminology-related issues, which are considered to be the biggest challenge of legal translation. While I do not question the ultimate relevance of terminological skills in legal translation, I also think that it is necessary to complement them by generic skills. The dominance of terminological questions also resulted in the improvement of the methodology of terminology management and the emergence of several terminology databases and tools that support legal translators in their work, while the methodology of teaching conventionalized, genre-specific language has not improved much lately. In my research I aim to prove that a working knowledge of the structural, stylistic and phraseological characteristics of legal genres may boost translation quality dramatically, and therefore, the improvement of genre awareness of future legal translators is a core issue in legal translator training. By this dissertation I would like to contribute to the methodology of improving the genre-awareness of future legal translators by providing some theoretical background and lots of practical suggestions.

2. Relevance

Drawing on research findings in the field of legal translation, the dissertation introduces the theoretical background to legal genre-related questions of methodology in translator training, and, justified by the results of an empirical research project, offers methodological suggestions as to how this theory may be best applied in practice. I discuss several aspects that are relevant in tackling the translation-related challenges of matching legal genres. I also analyse the factors that legal translator trainers need to take into account when selecting and grading texts used in the training. Another aim was to identify the genre- and text type-related pitfalls of legal translation and by highlighting the consequences of such pitfalls, to draw conclusions in terms of the competences, translation strategies, linguistic, metalinguistic and pragmatic skills necessary for legal translation. The pragmatic and text-linguistic approach to translation is

beneficial for legal translators, since the broad perspective enables them to acquire (and recognize the importance of) skills by which they can produce functionally more adequate and better quality translations, as pointed out by several translation researchers (e.g. Hoey 1998, Klaudy 2003). Research articles written in the topic of legal genres are overviewed, but from a novel angle: the attributes of legal genres and text types, the most frequently used generic transfer operations and the respective translation strategies are discussed from the perspective of legal translation. Bearing in mind the above mentioned aims, I organized my research around four main questions: 1. questions related to legal translation and legal translator training; 2. questions related to generic competence in legal translation; 3. questions related to defining the level of difficulty of translation tasks; 4. methodological questions related to the relevance of professional (thematic) and generic skills in legal translation.

3. Theoretical background

In this section I will give an overview of the sources I primarily relied on during my research. As for textology, genre analysis and genre theory, the research findings of Károly (e.g. 2007), Bhatia (e.g. 1997) and Prieto Ramos (2011, 2014) proved to be especially useful in the course of my research. In questions of translation methodology (text selection, text analysis, defining the difficulty of selected texts and translation tasks) I was drawing on the pattern suggested by Nord (e.g. 1991) and also on my own results of previous research projects (e.g. Balogh 2018.a, 2018.b). From the impressive list of references following my actual thesis, I would like to highlight the research results of some researchers who chose legal translation and/or legal translator training for their main area of research, just like me: Dobos (e.g. 2010), Šarčević (e.g. 1997), Biel (e.g. 2011) and Scott (e.g. 2017). Furthermore, I relied on the findings of Zódi (e.g. 2017) when discussing the implications of simplifying legalese and applying the principles of clear writing in the context of legal translation, and I also found his typology of legal texts an extremely useful source. Heltai's (e.g. 2005, 2018) research articles helped me a lot in phraseological questions and issues of professional communication. In the latter subject I also drew on Kurtán's (e.g. 2010) results, while Klaudy's research and her system of transfer operations came in handy for the parts of my thesis related to translation techniques. Given the subject of the dissertation, I could not avoid stumbling into questions of legal linguistic nature, but I was helped out by studies written by Láncoš (e.g. 2019) and Vinnai (e.g. 2010).

4. Research hypotheses

4.1 The acquisition and the development of generic skills is a core issue of legal translator training, as it is strongly related to the quality of translation.

This is the most fundamental issue of my research. Generic skills include characteristics related to both the macrostructure and the register (set phrases, collocations, etc.) of specific legal genres – the latter being more important in the context of translation, as the structure of genres does not really change in the process of translation, while the register must be matched to the norms of the target language in most cases (there are situations where this is not so – I give an account of the most typical transfer operations between genres in chapter 6). Each professional community has their expectations as to the language used in the prototypical genres applied by the community, including a set of textual conventions and fixed patterns. When the target text does not meet these expectations, i.e. the translator fails to draft the text in accordance with these fixed patterns, his competence as a professional translator will be questioned.

4.2 The translation-related difficulty of individual, functionally differentiated text types is diverse.

I hypothesize that it is more difficult to translate prescriptive/normative texts than descriptive ones, as they have a more rigid structure compared to descriptive texts. Both the language and the structure of descriptive texts are of a more flexible nature, there are not as many set phrases in them as in prescriptive texts (e.g. legal acts), which provides the translator with more linguistic choices and more flexibility. Text types and genres – using set phrases and formulaic language – require the translator to find the single best phrase, which entails time-consuming background research.

4.3 The difficulty of a translation task depends highly on the subject field-competence (thematic or professional knowledge) and the generic competence of the translator.

Generic and thematic competence are key competences in legal translation, without them the translator will most probably find the translation task more difficult. In some competence models, generic competence is considered as a subcompetence of thematic competence, while in others it is listed under intercultural competence. In the dissertation I discuss these two competences as strongly related to each other, as thematic competence in my interpretation extends to the whole scope of professional knowledge of a certain field including sociolinguistic and text production skills. The former skills imply the translator's ability to recognize the function and the meaning of different language varieties, to be aware that different communities have different rules of interaction, and to be able to choose the appropriate register while

translating. The latter skills imply that the translator knows and respects the rhetoric and generic traditions of specific genres, that is, he is able to produce texts that read as authentic.

4.4 Different text types require different levels of thematic knowledge from the translator.

By this hypothesis I assume that a different level of thematic knowledge is needed for the translation of the three examined legal text types (prescriptive-mixed-descriptive) and that it is the prescriptive type that requires the highest complexity of background information because it presupposes referential knowledge.

4.5 For the majority of translation students without legal qualification the appropriate use of collocations and set phrases in legal genres poses a challenge not only in a foreign language (language B), but in their mother tongue (language A) as well.

This hypothesis is based mostly on my experiences as a legal translator and legal translator trainer. The presumptions are checked by way of the results of an interinstitutional empirical research aiming to find out whether there are significant differences in the quality of legal translations carried out by students with and without legal qualifications. The results of the research are presented in chapter 8.

5. Outline of the dissertation

The general introduction of the research in *chapter 1* is followed by the discussion of the characteristics of legal texts and legal language in *chapter 2*. When introducing these characteristics, I draw on the relevant literature as well as my own experiences as a legal translator trainer. Even in this chapter the importance of identifying genre-specific characteristics becomes clear, as there is a huge difference in the extent to which these characteristics are manifested in each legal genre and text type.

The rationale for simplifying legal language and the role of clear writing guidelines in legal translation is in the focus of *chapter 3*, discussed again with a genre-based approach. One of the biggest dilemmas of legal drafting is to find the balance between its two conflicting requirements: transferring the complicated contents of the message precisely but also in clear and comprehensible language. The requirements of applying clear writing rules depends primarily on who the text is addressed to, and consequently also depends on the genre. In this chapter I examine which legal genres are affected, and what implications clear writing requirements have on translation.

In *chapter 4* the key concepts of the dissertation are defined, followed by the introduction of general, legal and translation-oriented text typologies. There are too many legal genres to be examined one by one, but grouping them under categories (legal text types) provides a suitable

ground for comparative analysis. The interdiscursive nature of legal texts is also discussed in this chapter, together with the changes legal genres undergo while fulfilling their function in the mechanism of the law. These interactions and changes are subject to the individual legal procedures of each legal system, and due to the differences between them they pose further challenges for the legal translator who must be aware of these differences to be able to choose the appropriate translation strategy. This phenomenon also raises the question of thematic competence.

The central issue of *chapter 5* is the role genre research and genre analysis plays in legal translation and legal translation training. Following the introduction of the relevant literature, theoretical research findings are supported by research data collected from empirical research and questionnaires. My own questionnaire-based research surveys the opinion of translation students about 1. the role generic knowledge plays in legal translation, and 2. the differences between the levels of difficulty of the respective text types. The aim of this questionnaire-based research was to check the validity of hypotheses 1 and 2 against the answers collected. This chapter also includes a sample for genre analysis (involving the examination of the intra- and extratextual features of a given legal genre). The analysis can be used in legal translator training.

After an introduction to the special challenges posed by legal translation in general, *chapter 6* provides a thorough analysis of the typical shifts (transfer operations) between legal genres, and discusses the difference between “domesticating” and foreignizing” translation strategies in terms of genre shifts. The chapter also overviews how the paradigms of legal translation and the role of the legal translator changed over the times.

Chapter 7 focuses on legal translation competences, especially on generic and thematic competence, which I consider the key competences of legal translation. The questions discussed in this chapter are relevant for the rejection or the confirmation of my third (and partly the fifth hypothesis). The chapter ends with a list of practical tasks and activities aiming to develop these competences.

In order to provide further justification for the importance of the two competences mentioned above, in *chapter 8* the results of an empirical research experiment are presented. The research was carried out in two different higher educational institutions in Hungary with two different populations of legal translation students. The aim of the research was to compare the quality of their translations.

Chapter 9 is built around methodological questions of translation training, such as the aspects to consider when defining the level of difficulty of a translation task and selecting the texts used in the training. This chapter synthesizes all the topics and research findings discussed

in the previous chapters, and outlines options for their practical application in translator training. The chapter includes the introduction of an adaptable curriculum presenting the detailed syllabus of an actual 3-semester legal translator training, and a sample text analysis aiming to define its level of difficulty by taking into account the aspects described above.

In the last chapter (*chapter 10*) of the dissertation I review my hypotheses by checking their validity and outline some possible areas for further research.

6. Research methods

The research belongs to the field of applied translation theory, since it discusses the need for genre- and text type-awareness in legal translator training from a methodological perspective. I used mixed methods with qualitative methods being dominant, but action research methods are also frequently applied. This is due to the fact that my research area and my professional activities correlate and thus, I also rely on my professional experience as a legal translator and legal translator trainer. Qualitative methods are applied when summarizing the relevant literature on translation research findings, discussing general and legal text typologies and aspects for text selection, and introducing two sample tasks: one for genre analysis (appendix 1) and an other for text analysis (appendix 2). The latter analyses the text with the purpose of defining the level of the difficulty of the translation task. The dissertation also draws on the results of a questionnaire filled in by translation students – this part of the research is partly qualitative and partly quantitative. Finally, empirical research methods are applied in an experiment conducted between two legal translator training institutions, the aim of which was compare legal translations prepared by translation students with and without legal qualification (Balogh and Lesznyák 2018.b, Lesznyák and Balogh 2019). The results are analysed by quantitative methods.

7. Summary of the results: reviewing the hypotheses

7.1 The acquisition and the development of generic skills is a core issue of legal translator training, as it is strongly related to the quality of translation.

In addition to the findings presented by the relevant literature, both the questionnaire-based and the empirical research results justify the validity of this assumption. The answers given in the questionnaire by legally qualified translation students suggest that the students unanimously supported the idea of developing generic competence during their training, as they thought it had a positive impact on the quality of translations. Accordingly, the results of the empirical research introduced in chapter 8 confirmed that – compared to their legally trained counterparts – translation students without legal qualifications are at a disadvantage when they have to produce texts that use the conventionalized language of the legal profession. Based on the above, this hypothesis can be considered as confirmed.

7.2 The translation-related difficulty of individual, functionally differentiated text types is diverse.

I hypothesize that it is more difficult to translate prescriptive/normative texts than descriptive ones, as they have a more rigid structure compared to descriptive texts. The hypothesis has been validated by research results gained from a questionnaire (chapters 5 and 9), by the analysis of the characteristics of the three text types (chapters 2 and 4), by examining questions related to legal phraseology (chapter 7), and by using the methodology of defining the translation-related difficulty of texts (chapter 9). Based on the answers given to the questionnaire, students with legal qualifications find it more difficult to translate prescriptive texts than to translate mixed or descriptive ones. By this, the hypothesis is partially confirmed. We have to say only partially, because, on the one hand, the opinion of students without legal qualification was not examined, so general conclusions cannot be drawn from these answers. On the other hand, the other methods or tools we used for the validation of the assumption failed to confirm it. It has become clear that translation-related difficulties cannot be the same for students with and without legal qualifications: different criteria apply to the two populations of students. Students who have good language knowledge but no legal qualification might find it more difficult to translate descriptive texts and correlate them in two different languages, because even the interpretation of these types of texts requires more effort. It has also become evident that the number of factors by which translation-related difficulty can be defined is too high to allow drawing general conclusions. In addition to textual or – using Nord's [1991] term – text-specific characteristics, the translation-related difficulty of legal text types and genres is subject to several pragmatic factors, among which the thematic competence of the translator is

crucial. So, although the hypothesis was partially confirmed by the answers given to the questionnaire, this hypothesis cannot be considered as valid. To be able to validate it, further empirical and corpus-based research is needed. The hypothesis should be paraphrased and tested in a more differentiated way: broken down to genres and tested against thematic knowledge and the language direction of the translation.

7.3 According to my third hypothesis, the difficulty of a translation task depends highly on the subject field-competence (thematic or professional knowledge) and the generic competence of the translator.

The relevant literature unanimously confirms the utmost significance of thematic competence in legal translation. Just like in the case of the first hypothesis where we said that it is easier for legally trained translators to produce legal texts in the appropriate register by using conventionalized language, we can confirm that legal translators with legal qualification are in an advantageous position in terms of thematic competence. Legal knowledge is acquired by them mostly implicitly during their studies, internships and in their jobs. This implicitly acquired knowledge involves conceptual thinking, understanding the relevance of interpretation and a referential background that is totally unfamiliar to students without legal qualification. Within the few month of the legal translation course there is no way for humanities students to make up for all these years of implicit learning that law students experience. However, the empirical experiment conducted by Way (2016) suggests that the key to successful legal translation is an interdisciplinary approach, where linguistic and legal skills complement each other. Based on his empirical results, Orlando (2015) also concludes that although thematic knowledge is a core element of legal translation competence, it is not enough for producing high quality legal translation in itself. It must be complemented by linguistic and translation methodological knowledge. The relevance of thematic competence and its influence on the quality (and also on the translation-related difficulty) of legal translation is also justified by the results of the empirical research introduced in chapter 8. In the experiment, the quality of legal translations prepared by two different populations of translation students is compared. The errors made by students in their translations were checked with the help of an analytic error typology, while the global quality of the translations was also assessed. The results of the research show that there are considerable differences between the performance of humanities students and legal professionals when it comes to translating legal texts in the case of the groups analysed: legal professionals outperformed students of humanities both on the global and the analytical scale. Their global performance scores were significantly higher, and they made

significantly less information transfer- and register-related (legal and non-legal) errors. Due to the the high number of errors made by the legally not qualified translation students, their translations proved to professionally unacceptable. To conclude, based on the above-mentioned comparative analysis of legal text types and the introduced theoretical and empirical results, the third hypothesis can be regarded as confirmed.

7.4 I assumed that different text types require different levels of thematic knowledge from the translator. My idea was that prescriptive legal genres require referential knowledge which make them more difficult to translate. However, the results of the research did not confirm the validity of this assumption. By a comparative analysis of the three text types we arrive at the conclusion that referential and thematic knowledge is required for translating all kinds of legal texts. What is more, by selecting different aspects for the analysis of translation-related difficulty we will arrive at inconsistent results: if text types are examined based on their clarity or their recipients, descriptive text types will come out as winner in posing the biggest challenges for translation in terms of thematic knowledge, as these texts are usually written by professionals to professionals, so there is no need for any simplification. Just like in the case of the second hypothesis, we have to conclude that the categorization of legal genres into text types does not allow us to draw general conclusions related to the amount of thematic competence needed for their translation, as within each text type there are too many legal genres bearing different characteristics. Although the hypothesis could not be confirmed, based on the validity of the previous hypothesis we can state with confidence that thematic knowledge is an advantage for the translator in each legal text type.

7.5 For the majority of translation students without legal qualification the appropriate use of collocations and set phrases in legal genres poses a challenge not only in a foreign language (language B), but in their mother tongue (language A) as well.

This hypothesis was validated by the results of the empirical research introduced in chapter 8. of the dissertation. The results gained by the comparison of legal translations (from English into Hungarian) prepared by students with and without legal qualification clearly showed that students of humanities made a large number of legal register errors as opposed to legal professionals, in spite of the fact that they were translating to their mother tongue. They used literally translated phrases instead of the set phrases and collocations required by the register of the given legal genre (contract in this case), which made their translations sound unprofessional. Based on the empirical data, the 5th hypothesis can be considered as confirmed.

8. Applicability and usefulness of the research

I hope that the results of the research will be a valuable contribution to the methodology of training competitive specialized translators in the fields of law and public administration, and will shed light on the genre-related challenges of legal translation. The dissertation may be used by translator trainers as a practical source of materials that can be used directly in or adapted to legal translator training courses, as it also provides lots of methodological suggestions and practical sample tasks, such as the adaptable curriculum presenting the detailed syllabus of an actual 3-semester legal translator training, a sample for genre analysis with a task sheet attached, a list of aspects to be considered when selecting texts for the training, and a sample task to demonstrate how the difficulty of a selected text can be defined (also attached as a supplement). As the dissertation gives a deep insight into the complexity of legal translation by analysing each of its components, it can also be useful for legal translators who are starting their careers or for anyone interested in the mechanism of legal translation.

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